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IN THE HIGH COURT OF JUDE CATURE AT BILASPUR C.G.

Single Bench

CIVIL REVISION NO./~~2005~~ 37 2005

APPLICANTS / APPELLANTS

1. Smt Mandeep Kaur Gandhi widow of Late Shri Amarjeet Singh Gandhi Age about 35 Years Present wife of Shri Harjeet Singh

2. Ku. Rasjeet Kaur Aged 12 Years D/O of Late Shri Amar Jeet Singh Gandhi Minor Through G.A. L. Mother Smt. Mandeep Kaur Gandhi Both Residents of Village Pandariya Tahsil Lormi, Distt. Bilaspur (C.G.)

VERSUS

NON APPLICANTS / RESPONDENTS

1. State Bank of India Through Branch Manager Pamgarh Branch District Janjgir-Champa (C.G.)

2. General Public

3. Smt. Tej Kaur Aged about 56 Yeas W/O Late Trilok Singh Gandhi (Lower Appellate Gourt N.A. No.3)(His Died on. 16.10.2004) Resident of Dayal Band Beside Gurudwara District Bilaspur (C.G.)

P.R. No. 956/05 Presented by Shri Satpal Kashyap dated 21/10/05

...UNDER SECTION 115 OF CPC

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक C.R.No.37/... **सन् 2005**

(67)

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

22.02.2007

Applicants by Shri Sharad Kashyap, Advocate.

Respondent No.1 by Shri P. Dutta, Advocate.

Heard on admission.

The applicants are aggrieved by an order dated 05.10.2004 passed by the 1st Additional Judge to the Court of District Judge, Bilaspur in Misc. Civil Appeal No. 14 of 2004 affirming the order dated 28.04.2004 passed in Succession Case No.24 of 2002 by the 5th Civil Judge Class-1, Bilaspur.

Both the Courts below have held that the deceased having ordinarily resided in Palmgarh at the time of his death and also the amount for which a succession certificate was being required was deposited in S.B.I. Palmgarh wherein the deceased had mentioned his registered address in Palmgarh, the 5th Civil Judge Class-I, Bilaspur had no jurisdiction to entertain the application under Section 372 of the Indian Succession Act.

Having heard the submission made by learned counsel for the applicants and after perusing the record of Succession Case No.24 of 2002, I am of the considered opinion that the order passed by the 5th Civil Judge Class-I and affirmed in Misc. Civil Appeal by the 1st Additional District Judge, Bilaspur is well merited and calls for no interference.

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — २ —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Section 371 of Indian Succession Act, 1925 reads as under:

"371. Court having jurisdiction to grant certificate.--- The District Judge within whose jurisdiction the deceased ordinarily resided at the time of his death, or, if at that time he had no fixed place of residence, the District Judge, within whose jurisdiction any part of the property of the deceased may be found, may grant a certificate under this Part."

A plain reading of Section 371 of the Indian Succession Act shows that the District Judge within whose jurisdiction the deceased ordinarily resided at the time of his death or if the deceased had no fixed place of residence, the District Judge within whose jurisdiction any part of the property of the deceased may be found, may grant a certificate under this Part.

Learned counsel for the applicants did not dispute that at the time of making deposit in the S.B.I. Palmgarh the deceased had given his registered address at Palmgarh.

Trilok Singh, the father of the deceased had clearly stated in paragraph-1 of his testimony that the deceased used to reside with him in Palmgarh. Certificate issued by the Sarpanch, Palmgarh has also been filed in the Succession Case which reads as under:

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

प्रमाणित किया जाता है कि स्व सरदार अमरजीत सिंह गांधी आत्मज सरदार त्रिलोक सिंग गांधी ग्राम पामगढ में निवास करते थे उनका दाह संसर पामगढ शमसान में किया गया। स्व. सरदार अमरजीत सिंह गांधी जन्म से पामगढ में निवास करते थे।

सही/–
सरपंच
ग्राम पंचायत, पामगढ

It is thus clear that the deceased not only resided in Palmgarh at the time of his death but also the deposit in S.B.I for which a succession certificate was sought was also made in Branch Palmgarh. In this view of the matter, the finding recorded by both the Courts below that 5th Civil Judge Class-1, Bilaspur had no jurisdiction to entertain the application under Section 372 of Indian Succession Act is well merited and cannot be faulted with.

This revision is without substance and is dismissed at the stage of admission.

The applicants shall be at liberty to file an application under Section 372 of the Indian Succession Act before the District Judge, Janjgir.

Sd/-
Dilip Raosaheb Deshmukh
Judge